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10/774,301

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Jeremy Irish

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EXAMINER

MANCHO, RONNIE M

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,301	<b>Applicant(s)</b> IRISH ET AL.	
	<b>Examiner</b> RONNIE MANCHO	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 6-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-5 are not enabled. Applicant recites the following limitations in the claims:

“Zone of influence”, what is being influenced, is it movement of traffic in a geographic area, communication of GPS signals, etc? Applicant does not provide the meaning thereof, the phrase was copied from the specification and pasted in the claims without any description to enable one skilled in the art to make and use the invention.

Applicant further recites, “event data”. What event is applicant referring to, is it when a user pushes a button on a GPS device, drive a car, purchase a GPS device? Applicant does not provide the meaning thereof, the phrase was copied from the specification and pasted in the claims without any description to enable one skilled in the art to make and use the invention.

Applicant further recites, “user navigational event”. What is the user navigation event and how is it triggered and under what conditions? Is the user requesting travel directions, POI's, etc? Applicant does not provide the meaning thereof, the phrase was copied from the specification and pasted in the claims without any description to enable one skilled in the art to

Art Unit: 3664

make and use the invention. What is the difference or relation of “event data” and “user navigational event” as claimed?

In claim 2, applicant recites, “a duration”. What duration is applicant referring to? How is the claimed duration linked to the claim limitations?

Further in claim 2, the following limitations are not enabled in applicant's specification: “to locally trigger each user navigational event associated with the timed event”. It is not clear how the limitation is interpreted in view of the limitations in the limitations in the first six lines of claim 2.

Applicant in claim 3, further recites, “independent trigger condition”. What is triggered and under what condition? Applicant does not provide the meaning thereof, the phrase was copied from the specification and pasted in the claims without any description to enable one skilled in the art to make and use the invention.

Further in claim 3, “to locally trigger each user navigational event associated with the independent trigger conditions based on the trigger condition satisfaction” is not enabled in applicant's specification. The limitations are fused and thus confuse the scope of the claims not enabling one skilled in the art to make and use the invention. What are the metes and bounds of, “trigger condition satisfaction”? The specification does not provide adequate support for the limitations.

Applicant's claims 1-5 recite “user event data”, “user navigation event”, “timed event data”. It is unclear how and in what manner these limitations are related or distinguished from each other.

The rest of the claims are rejected for depending on a rejected base claim.

Art Unit: 3664

3. Claims 2, 3, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 2, the limitation, "to locally trigger each user navigational event associated with the timed event" is new matter because applicant's original disclosure does not recite the limitation.

In claim 3, "an evaluation module configured to *determine trigger condition satisfaction of one or more of the independent trigger conditions*" is new matter because applicant's original disclosure does not recite the limitation.

The rest of the claims are rejected for depending on a rejected base claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. As best Understood, Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Sporgis (6320495).

Art Unit: 3664

Regarding claim 1, Sporgis (figs. 1-4) discloses a system for executing user navigational events (col. 3, lines 19-27) triggered through geolocational data (col. 5, lines 9-23; figs. 3&4) describing zones of influence, the system comprising:

a storage medium 12 (fig. 1) configured to hold data in a cartridge script (col. 4, lines 14-24; i.e. a collection of zones, map locations, items, events, etc; see specification, page 7, line 3) loadable into a wireless computing device, wherein the data comprises:

zone of influence data configured to define one or more zones of influence into the cartridge script by describing a plurality of points of static geolocational data (figs. 3&4; col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3); and

user event data configured to define one or more user navigational events (i.e. individualized events; col. 3, lines 19-26, lines 63-65) into the cartridge script and to associate each user navigation event in the user event data with at least one zone of influence; and

the wireless computing device 10 configured to execute a scenario by triggering the user navigational events (col. 3, lines 19-26, line 63 to col. 4, line 13) in the user event data stored on the cartridge script through movement (col. 5, lines 9-23) of the wireless computing device 10, the wireless computing device comprising:

a locational module device 11 (GPS col. 3, lines 1-18) configured to continuously self-identify a location of the wireless computing device 10 based on dynamic geolocational data (refers to movement, col. 5, lines 9-23) determined in response to the movement; and

a processor module (computer program 12, col. 3, lines 1-5) configured to determine a correlation (col. 5, lines 9-23) between the dynamic geolocational data and the static geolocational data for one or more of the zones of influence, and to locally trigger the user

Art Unit: 3664

navigational event (col. 3, lines 19-26, line 63 to col. 4, line 13; col. 5, lines 9-23) associated with the zone of influence based on the correlation.

Regarding claim 2, Sporgis (figs. 1-4) discloses the system according to claim 1 further comprising:

further data in the cartridge script loaded in the wireless computing device comprising timed event data configured to specify one or more timed event comprising start time and a duration and to associate each timed event with at least one user navigation event (col. 3, lines 19-26, line 63 to col. 4, line 13; col. 5, lines 9-28); and

the wireless computing device further comprising:

a timer module configured to measure an elapsed time beginning with the start time of each timed event (see scheduled, begin travel, etc; col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28);

an evaluation module configured to determine when the elapsed time substantially equals the duration of one or more of the timed events, and to locally trigger each user navigational event associated with the timed event (col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28).

Regarding claim 3, Sporgis (figs. 1-4) discloses the system of claim 1 further comprising:

further data in the cartridge script loaded in the wireless computing device comprising one or more independent trigger conditions, wherein each independent trigger condition is configured to be associated with at least one user navigational event (col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28); and

the wireless computing device further comprising:

Art Unit: 3664

an evaluation module configured to determine trigger condition satisfaction of one or more of the independent trigger conditions, and to locally trigger each user navigational event associated with the independent trigger conditions based on the trigger condition satisfaction (col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28).

Regarding claim 4, Sporgis (figs. 1-4) discloses the system according to Claim 1, wherein the zone of influence data is configured to define each zone of influence as discrete, adjoining, overlapping, and nested relative to at least one other zone of influence in the zone of influence data (figs. 3&4; col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28).

Regarding claim 5, Sporgis (figs. 1-4) discloses the system according to Claim 1, wherein the zone of influence data is configured to define at least one zone of influence in the zone of influence data as inheriting at least one user navigational event from one or more other of the zones of influence in the zone of influence data (col. 3, lines 19-31, line 63 to col. 4, line 13; until player arrives, col. 5, lines 9-28).

### ***Response to Arguments***

6. Applicant's arguments filed 7/10/08 have been fully considered but they are all not persuasive.

Applicant argues about being their own lexicographer; however, the examiner notes that applicant failed to provide the meaning of the limitations as known in the art. Applicant recites "zone of influence" and insists in the remarks dated 10/31/07 that it means the same as --parking zone--. However, in the remarks dated 7/10/08 applicant provides a different inconsistent



Art Unit: 3664

meaning to the limitation. Applicant's arguments are thus not convincing. When a parking zone is recited in the art, one skilled in the art immediately recognizes that it refers to an area where cars are parked. But applicant's specification does not suggest or recite a zone where cars are parked. If the limitation, "zone of influence" is replaced with --parking zone-- in the claims, the scope of the invention still will not be clearly disclosed for one skilled in the art to apprise the invention. Applicant in the remarks dated 7/10/08 refers to the definition of "zone" as an area or region distinguished from adjacent parts by a distinctive feature or characteristic. Applicant further defines "influence" as a power indirectly or intangibly affecting a person or a course of event. The examiner disagrees with the conflicting definitions. Applicant's zone of influence does not suggest or have show any connection with power which is scientifically defined as the rate of doing work. The examiner is at loss at how the applicant's definitions are related to the invention. It is not clear what applicant is influencing and how it is done. Applicant insists that pages 10, 11, 13, 14 and 15 provide a clear meaning of the terms in the claims. The examiner disagrees and notes that the terms are copied from the cited pages and pasted in the claims. As an example, page 10 lines 30 et seq. recites "a sequence of events is stored in a cartridge", "events can be logically linked to one or more zones of influence". Page 13, lines 2 to page 15 recite, "vector based zones of influence", and "zones of influence". There is nothing that suggests "power indirectly or intangibly affecting a person" as provided in applicant's dictionary definition. The examiner's disagreement and explanation also applies to the terms, "event data", trigger conditions", and "user navigation event". Theses terms are copied from the cited pages and pasted in the claims. Applicant failed to provide the metes and bounds of the limitations. Applicant's amendments do not cure the deficiencies cited in the claims.

Art Unit: 3664

Applicant further argues that the limitations in amended claims 2 and 3 are supported at pages 4, 8, 9, 11, 15, 16, 22, 25. The examiner disagrees and notes that the cited pages do not recite or suggest the limitation, *"to locally trigger each user navigational event associated with the timed event"* as in claim 2 and the limitation, *"an evaluation module configured to determine trigger condition satisfaction of one or more of the independent trigger conditions"* as in claim 3. The cited pages recite phrases such as, "vector based zones of influence", and "zones of influence", "the timed and independent events are triggered as the time limits expire", etc. the cited pages do not have adequate support for the limitations pointed out in the rejection.

The examiner disagrees with applicant that "duration" is disclosed in the cited pages. The examiner notes that the claim recites duration, but does recite for example duration of ....., the claims merely recite duration, but do not recite duration of travel from point A to point B for example. The recited pages recite for example, "time-based events" and the start of an event or when the time-based events occur. As an example page 4, lines 5-67 recite, "the timed and independent events are triggered as the time limits expire". The statement indicates that timed and independent events are triggered at a given time. However, the phrase further recites, "the time limits expire". The time limits of what expires? The rest of the pages recite "recurring events", "triggered events", "conditional triggered events", etc. The limitations in claims 2 and 3 as pointed out above are not adequately supported in the cited pages.

The 112 rejections to claim 4 are withdrawn except for those maintained above. In addition the antecedent basis rejection has been withdrawn in view of applicant's amendments.

Applicant traverses the 102 rejection saying that Sporgis discloses a Gamemaster. The examiner disagrees and notes that although Sporgis discloses a Gamemaster, Sporgis anticipates

Art Unit: 3664

the limitations because the examiner has cited the columns and figures where the limitations are found. Applicant fails to indicate any particular limitation not disclosed by the prior art. Instead the applicant makes a general statement insisting that the prior art does not disclose the limitations in the claims. Applicant has not met the 112 enablement requirement in the claims. The claims have been rejected as best understood.

Applicant's arguments drawn to claim 1 are not convincing because the limitations are replete with 112 issues. Similar to applicant's invention, the prior art determines a correlation between static and dynamic geolocational data because the GPS unit compares the position of movement of the GPS device with the position of a destination where a treasure is located. The position of the treasure is static and the position of the GPS unit is dynamic. Thus the prior art anticipates the claims.

Applicant further argues that the prior art does not disclose a processor on a wireless computing device, but that the prior art discloses a wireless device (GPS unit) that discloses triggering, determining and providing clues etc. The argument is not convincing because the processes "triggering, determining and providing" can only be performed by a processor as claimed.

The examiner is not arguing that applicant does not disclose terms such as "cartridges", "zone of influence", etc, but that applicant's limitations are inconsistent and do not provide the meaning thereof as rejected in the 112 rejections. Applicant copies and pastes the limitations in the claims without providing the meaning associated with the limitations.

Art Unit: 3664

Applicant argues that Sporgis does not disclose the limitations in the claims. The examiner disagrees. Sporgis anticipates, “a cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3) comprising:

zone of influence data to define one or more zones of influence and wherein each zone of influence is described by a plurality of stored geolocational data (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3). The definition of cartridge in Sporgis is that disclosed in applicant’s specification, page 8.

It is further noted that Sporgis further anticipates, “a wireless computing device 10 to execute the cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3), the wireless computing device comprising:

a locational device 11 (GPS col. 3, lines 1-18) to self-identify a location of the wireless device 10 based on further geolocational data (col. 5, lines 9-14); and

a processor (computer program 12, col. 3, lines 1-5) to trigger at least one user event (i.e. a new clue) on the cartridge when the further geolocational data substantially correlates to the stored geolocational data for the zone of influence associated with the trigger condition of the at least one user event (col. 5, lines 9-23)”. Applicant is basing their arguments on inconsistent limitations.

Art Unit: 3664

It is believed that the rejections are proper and thus stand.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Communication***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONNIE MANCHO whose telephone number is (571)272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Khoi can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3664

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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10/21/2008  
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